

Tyrin Gayle # 77732-054
FCI McKean / P.O. Box 8000
Bradford, PA 16701

Clerk of the Court
USDC - Southern District of New York
U.S. Courthouse / 300 Quarropas St.
White Plains, N.Y. 10601

RE: United States v. Tyrin Gayle
Case NO.: 7:16-cr-00361-CS

Honorable Clerk,

This letter/motion is in regards to an extension of time to file a Rule 60(b) motion, which is subject to a one-year limit on motions under Federal Rules of Civil Procedure 60(c)(4). The Court denied my letter/motion without prejudice.

Hindsight being 20/20, I have realized that my letter lacked specificity as to what judgement, under Rule 60(B), I was seeking to re-open. Thus, the court's denial is understandable.

That said, I plan on filing a Rule 60(b) motion to re-open the 28 U.S.C. § 2255 motion I filed in this

court on November 23, 2020. I was denied certiorari by the High court on October 2, 2023, which rendered the judgement final as well as started the clock on the one-year time limit on [Rule 60(b)] motions under FRCP 60(c)(2).

Due to an [indefinite] institutional lockdown, I am unable to utilize the law library, amongst other things needed, to adequately work on my pending Rule 60(b) motion.

For the reasons stated above, I am seeking an extension of time to file said motion.

Thank you in advance for any time, assistance, and courtesy in this matter.

September 15, 2024

Date

Respectfully,

~~T. Gayle~~

Tyrin Gayle,

Pro Se

I am sorry to inform Mr. Gayle that an appeal of a judgment does not toll the one-year period for filing a Rule 60(b) motion that falls under Rule 60(b)(1)-(3). *King v. First Am. Investigations, Inc.*, 287 F.3d 91, 94 (2d Cir. 2002) (per curiam). The one-year limit is "absolute," *Warren v. Garvin*, 219 F.3d 111, 114 (2d Cir. 2000), and "the fact that Defendant[] unsuccessfully appealed the judgment[] in this case to the Second Circuit and the Supreme Court does not toll the one-year deadline," *S.E.C. v. Amerindo Investment Advisors, Inc.*, No. 05-CV-5231, 2017 WL 3017504, at *8 (S.D.N.Y. July 14, 2017). In short, "appellate consideration of an underlying judgment does not extend the time to ask for Rule 60(b) reconsideration of that judgment." *Wycle v. Advanced Drainage Sys., Inc.*, 332 F.R.D. 109, 113 (S.D.N.Y. 2019). Further, in any event, under Federal Rule of Civil Procedure 6(b)(2), "[a] court may not extend this one-year limitation." *Trident Groupage v. Royal Coffee, Ltd.*, No. 94 CIV. 6065 LAP, 1996 WL 445356, at *4 (S.D.N.Y. Aug. 6, 1996). Accordingly, the application is denied. The Clerk of Court is respectfully directed to send a copy of this endorsement to Mr. Gayle. SO ORDERED.

9/23/24

Cathy Seibel
CATHY SEIBEL, U.S.D.J.

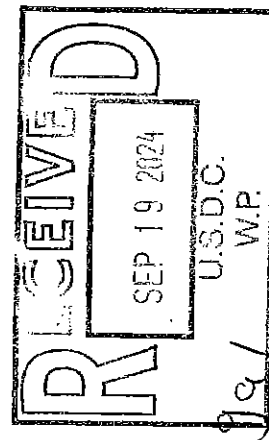
Federal Correctional Institution McKean

Name: Tyrin Gayle

Reg. #: 77732-054

P.O. Box 8000

Bradford, PA 16701

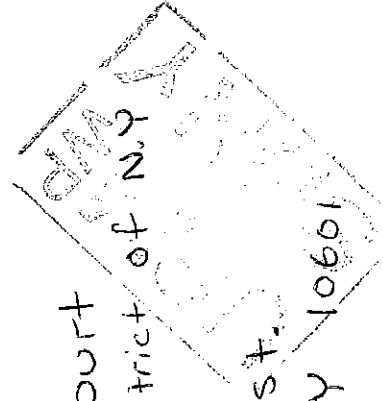


Thinking of you

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